

## INDEX TO APPENDIX

	PAGE
<b>Article 1:</b>	
General Provisions .....	13
<b>Article 2:</b>	
Business Corporations .....	15
<b>Article 3:</b>	
Merger and Consolidation of Corporations .....	17
<b>Chapter 154:</b>	
Foreign Corporations .....	17
<b>Chapter 159:</b>	
Railroads, Steamboat and Canal Companies .....	19
<b>Chapter 160:</b>	
General Railroad Law:	
Article 1—General Provisions .....	20
Article 2—Incorporation and Operation by Purchaser of railroad .....	21
Article 3—Consolidation and Aiding of other Companies .....	21
Article 4—Jurisdiction of the Public Service Commission .....	22
Article 5—Rates, Charges and Regulations .....	23
Article 6—Safety Appliances and Liability for Injuries and Damages .....	25
Article 7—Carriage of Passengers and Goods .....	27
Article 8—Crossings and Cattle Guards .....	29
Article 9—Rights of Way .....	29
Article 10—Penalties and Forfeitures .....	30
<b>Chapter 160-A:</b>	
Grade Crossings and Grade Separation Structures across Railroad Tracks .....	30
<b>South Carolina Code of Civil Procedure</b> .....	31
<b>State Constitution of 1895:</b>	
Article IX—Corporations .....	31

## **ARTICLE 1**

### **General Provisions**

Sec. 7676. All charters subject to amendment or repeal.

Sec. 7677. Provisions attaching to all corporations (except railroads and banks already in existence).

- (1) Liability of stockholders.
- (2) Fraudulent misrepresentations.
- (3) Real estate—other general powers.
- (4) Regulations as to stock.
- (5) Not use in banking.

Sec. 7678. Bond of treasurer.

Sec. 7679. Stockholders' meetings.

Sec. 7680. Cumulative voting.

Sec. 7681. Certificates of stock.

Sec. 7682. Corporations required to issue new certificates of stock.

Sec. 7683. Only bona fide owners of stock to have new certificates.

Sec. 7684. Publication.

Sec. 7685. General powers of private corporations.

Sec. 7687. Organize in two years.

Sec. 7688. Certain corporations may increase capital stock—manner—fees.

Sec. 7689. Decrease of capital stock—transfer of excess to surplus.

Sec. 7689-1. Fraudulent misrepresentation by directors.

Sec. 7690. Fees to be paid into state treasury.

Sec. 7691. Publication of certificates granted by secretary of state—reports to General Assembly.

Sec. 7692. Payments for stock must be bona fide.

Sec. 7693. Preferred stock.

Sec. 7694. Stock—meeting attach conditions, etc.—exchange.

Sec. 7695. Vote on question of preference, etc.

Sec. 7696. Notice dispensed with at organization of company.

Sec. 7697. Two-thirds vote necessary to attach conditions to stock.

Sec. 7697-1. Exchange stock of one class for stock of another class—disposition.

Sec. 7698. Stock in manufacturing company realty—transfer—distribution in cases of intestacy.

Sec. 7699. Claims against corporations to bear interest after thirty days.

Sec. 7700. All debts due for work in this State payable in this State.

Sec. 7701. Receipt of relief fund no bar to action for damages.

Sec. 7702. Corporations may recover debts from their members.

Sec. 7703. Not to issue bills of credit as a circulating medium—penalty.

Sec. 7704. Forfeiture of charter for failure to pay taxes—duty of tax commission—relief of forfeiture—fees.

Sec. 7704-1. Cancel charters of defunct corporations.

Sec. 7704-2. Secretary of state notify tax commission when charters issued, amended or cancelled—also keep files of active and cancelled charters.

Sec. 7704-3. Record cancellations of charters—deeds and mortgages recorded prior thereto valid.

Sec. 7705. Sale of major assets of corporation—conditions—consideration—consent of stockholders—notice of meeting.

Sec. 7706. Rights of objecting stockholders—appraisals—payment.

Sec. 7707. Voluntary dissolution of corporations.

Sec. 7708. Proceedings for dissolution.

Sec. 7709. Continuance of corporations for closing affairs after expiration, annulment, etc., of charter.

Sec. 7710. Powers of directors after dissolution of corporation.

Sec. 7711. Power to sue and liability to suit of directors after dissolution.

Sec. 7712. Appointment of receiver to take charge of effects, etc., of corporation—powers.

Sec. 7713. Jurisdiction of court of common pleas therein.

Sec. 7714. Duty of trustees or receivers.

Sec. 7715. Dissolution of corporation not to abate actions.

Sec. 7716. Decrees of dissolution to be filed with secretary of state.

Sec. 7717. Renewal of certain charters—petition—certificate.

Sec. 7718. Effect of certificate—where recorded.

Sec. 7719. Charters renewed subject to amendment or repeal.

Sec. 7720. Renewals confirmed.

Sec. 7722. Fees for renewal certificates.

Sec. 7723. Officers of corporation to send out, on request, sworn statements.

Sec. 7724. Provisions as to sworn statements not to apply to certain corporations.

Sec. 7724-1. Officer of corporation guilty of a false statement guilty of perjury.

Sec. 7724-2. Failure make corporate report as required misdemeanor.

Sec. 7724-3. Not pay dividends unless earned—false statements.

Sec. 7725. Corporations shall file financial statements in court on petition of stockholders.

## ARTICLE 2

### Business Corporations

Sec. 7726. Secretary of state issue charters—requisites.

Sec. 7727. Requirements for winding up corporation.

Sec. 7728. Subscription—how payable.

Sec. 7729. Organization—when and how perfected.

Sec. 7730. How secure charter—record—admit in evidence.

Sec. 7731. Issues of stock without par value—conditions of issue—valuation for fixing amount of charter fees—banks excepted.

Sec. 7732. Irregularities not to vitiate corporation unless ordered by proper proceedings.

Sec. 7733. Board of corporators to turn papers over to company.

Sec. 7734. Proceedings to be recorded by secretary of state.

Sec. 7735. Certain recording dispensed with.

Sec. 7736. To be filed and indexed.

Sec. 7737. What papers shall be recorded.

Sec. 7738. Fees for charters—consolidation of railroad companies—disposition of fees.

Sec. 7739. Secretary of state to collect at least five dollars for charter—exceptions.

Sec. 7740. Fees for building and loan associations.

Sec. 7741. How certain corporations may secure a new charter—amendments—fees.

Sec. 7742. Expenses of charters.

Sec. 7743. Duration and renewal of charters.

(1) Charters perpetual—liquidation.

(2) How expired charters may be renewed.

(3) Form of petition.

(4) Record.

(5) Secretary of state to publish list of renewals.

Sec. 7744. Amendments by special acts confirmed.

Sec. 7745. Powers.

Sec. 7746. When stock shall be issued.

Sec. 7747. Additional powers.

Sec. 7748. Shares of stock requisite for eligibility of directors, etc., of banking corporations.

Sec. 7749. Classes of directors for certain corporations.

Sec. 7750. Books open to inspection.

Sec. 7751. Non-user of charter for five years a forfeiture.

Sec. 7752. Failure to elect directors and officers.

Sec. 7753. Right to charge for use of wharves.

Sec. 7754. Subject to liabilities and rights now imposed by law.

Sec. 7755. Right of manufacturing corporations to become members of certain mutual associations.

**Sec. 7756.** Manufacturing corporation member of mutual insurance companies, etc.—warehouse receipts.

### ARTICLE 3

#### **Merger and Consolidation of Corporations**

**Sec. 7757.** Submission to stockholders—certification to secretary of state—record—charter fees.

**Sec. 7758.** Powers of consolidated corporation—property, etc., vested.

**Sec. 7759.** Rights of dissenting stockholders.

**Sec. 7760.** Actions pending.

**Sec. 7761.** Certain liabilities and rights not affected.

**Sec. 7762.** Bond issues by consolidated corporations—stock issues.

**Sec. 7763.** Mergers not to contravene anti-trust laws.

### CHAPTER 154

#### **Foreign Corporations**

**Sec. 7764.** Rights and privileges granted to foreign corporations.

**Sec. 7765.** Stipulation to be filed by foreign corporations doing business in this State.

**Sec. 7765-1.** Person designated by foreign corporation as agent for service of process may resign—secretary of state act as such agent if no successor named.

**Sec. 7766.** Papers and statements to be filed.

**Sec. 7767.** Fees payable by certain foreign corporations—filing of annual statements.

(1) Fees of foreign corporations domesticating in this State.

(2) Fees of foreign corporations domesticated.

(3) Fees of domesticated foreign corporations for filing certain papers.

(4) Foreign corporations domesticating after September first—filing statements.

(5) Penalty.

(6) Corporations exempted.

Sec. 7769. Penalties for failure to file statements or pay fees.

Sec. 7770. Fees not in lieu of any taxes.

Sec. 7772. Copies to be furnished and received in evidence.

Sec. 7773. Condition precedent to doing business in this State.

Sec. 7774. Corporations doing business in this state deemed doing business under this chapter.

Sec. 7775. Administration of assets of foreign corporation.

Sec. 7776. Subject to laws—limitations.

Sec. 7777. Requisites for obtaining charter.

Sec. 7778. How foreign railroad companies may do business in this State.

Sec. 7779. One of the corporators must be resident.

Sec. 7780. Charter in conflict with laws void.

Sec. 7782. Charter to railroad not granted unless one stockholder is resident.

Sec. 7783. Companies complying with provisions excused from paying other fees.

Sec. 7784. Penalty for failure to comply with law.

Sec. 7784. Consolidations of railroad companies.

Sec. 7786. Corporations domesticated under laws in accordance with Constitution of 1895 excepted.

Sec. 7787. Liability of railroad company to actions for damages.

Sec. 7788. Railroads complying with previous laws excepted.

Sec. 7789. Foreign companies must comply.

Sec. 7790. Aliens can hold only 500 acres land—exceptions—vested rights unaffected.

## CHAPTER 159

**Railroads, Steamboat and Canal Companies**

Sec. 8179. Mode of incorporation of steamboat, street railway, and canal companies—powers, etc.—charters confirmed.

Sec. 8180. When commission will issue—fee for same—books of subscription, etc.

Sec. 8181. Subscriptions—in what payable.

Sec. 8182. When company may organize.

Sec. 8183. Corporators' return and its contents—charter fees—issuance of charter, etc.

Sec. 8184. Irregularity not to vitiate corporation.

Sec. 8185. Corporators to turn over to corporation subscription lists, etc.

Sec. 8186. Rights and powers of railroad and street railway corporations.

Sec. 8187. Electric railway, gas and electric light companies may lease property.

Sec. 8188. How charters may be amended by secretary of state.

Sec. 8189. Decrease or increase capital stock—change name—amend charter.

Sec. 8190. Right of corporation to increase its capital stock.

Sec. 8191. Duration, and repeal of charter—waiver of charter right.

Sec. 8192. Meeting of stockholders.

Sec. 8193. When capital stock to be issued.

Sec. 8194. Directors must be stockholders.

Sec. 8195. Fictitious stock or indebtedness prohibited.

Sec. 8196. Rights to exact tolls.

Sec. 8197. Pay fees into state treasury.

Sec. 8197-1. Railroad corporations to pay railroad shop employees semi-monthly.

Sec. 8198. Unlawful for certain steamboat lines to change schedule without notice—penalty.

## CHAPTER 160

### General Railroad Law

#### Article 1—General Provisions

Sec. 8254. Definition of terms—to whom applicable.  
Sec. 8255. Liability of corporation operating road of another corporation—trustees and receivers—liabilities.  
Sec. 8256. Persons occupying office at railway stations, etc., to be deemed agents of corporation chartered.  
Sec. 8257. Construction of words “person or persons”.  
Sec. 8258. Rules of evidence—disposition of fines—cumulative remedies.  
Sec. 8259. Amendment to charters granted since act December 17, 1841.  
Sec. 8260. General rights and liabilities—contents of particular charters.  
Sec. 8261. Corporate powers.  
Sec. 8262. Subscription books—subscriptions—power to execute, bonds, mortgages, etc.  
Sec. 8263. Right of way.  
Sec. 8264. Transactions with other railroads—crossings and connections—purchase, sale, lease and consolidation.  
Sec. 8265. Operation of sections of road completed or acquired.  
Sec. 8266. Liability of stockholders—limitations.  
Sec. 8267. Railroad mortgage—what to cover.  
Sec. 8268. Proxies, execution and limitation.  
Sec. 8269. Annual schedule and report to be filed with railroad commissioners.  
Sec. 8270. May extend lines and branches—limit right of way.  
Sec. 8271. Railroads may reconstruct and relocate lines—make other changes in tracks, etc.  
Sec. 8272. May acquire real estate.  
Sec. 8273. Powers additional.

Sec. 8274. Railroads not to remove from towns of more than five hundred.  
Sec. 8275. Liability to landowners for damages for obstruction of watercourses.

### Article 2—Incorporation and Operation by Purchaser of Railroad

Sec. 8276. Incorporation on purchase—certificate—capital stock.  
Sec. 8277. Owners of abandoned railroad to commence operation within sixty days.  
Sec. 8278. Penalty for failure to reorganize.  
Sec. 8279. Roads—Sec. 8277 applicable.  
Sec. 8280. Powers, rights, etc., of new corporation.  
Sec. 8281. May issue bonds—rate of interest—mortgage of railroad property.  
Sec. 8282. Provisions as to filing and recording railroad mortgages and deeds of trust.  
Sec. 8283. May establish sinking fund—limitations.  
Sec. 8284. Subject to provisions notwithstanding original charter.

### Article 3—Consolidation and Aiding of Other Companies

Sec. 8285. Companies may merge and consolidate.  
Sec. 8286. Provisions governing consolidations.  
Sec. 8287. Rights, etc., of new corporation.  
Sec. 8288. Transfer of rights, etc., of each corporation—liabilities.  
Sec. 8289. New company shall establish offices.  
Sec. 8290. Liability to suits.  
Sec. 8291. Subject to taxation.  
Sec. 8292. Privileges of stockholders opposing consolidation—proceedings.  
Sec. 8292-1. Purchase of connecting roads, rights, etc., sold under mortgage or process.  
Sec. 8292-2. Amalgamation, etc., or railroads restricted.  
Sec. 8292-3. May purchase bonds and stock of other companies, lease other roads, guarantee bonds or stocks.

Sec. 8293-4. Ownership of stock in certain cases prohibited  
—duty of attorney general.

Sec. 8292-5. May aid in construction of other railroads or  
steamboat lines.

#### Article 4—Jurisdiction of The Public Service Commission

Sec. 8292-11. Assessment of expenses on corporations—  
basis—when payable—free transportation  
—experts and agents.

Sec. 8292-12. Commissioners have general supervision.

Sec. 8292-13. Proceedings for violating charters and laws.

Sec. 8292-14. Give notice of repairs—proceedings.

Sec. 8292-15. Investigate complaints—notice in writing—  
proceedings.

Sec. 8292-16. Shall investigate causes of accidents.

Sec. 8292-17. May require information.

Sec. 8292-18. Request or advice not to impair legal duties.

Sec. 8292-19. Commissioners' annual report to Legislature  
and Recommendations as to legislation.

Sec. 8292-20. Annual reports of railroads—blanks—defec-  
tive reports—transmitting report to  
Governor.

Sec. 8292-21. Supervision of contracts—approving division  
of earnings—rules and regulations—void  
agreements.

Sec. 8292-22. Right to issue subpoena—witness fees—  
penalty for disregard of subpoena—  
contempt.

Sec. 8292-23. Penalty for failure by agent, etc., to re-  
port, etc.

Sec. 8292-24. May propound interrogatories.

Sec. 8292-25. Examination of books on application of cer-  
tain persons.

Sec. 8292-26. Have access to list of stockholders.

Sec. 8292-27. Investigation of books and papers—agents  
and employees—delegation of powers—  
penalties.

**Article 5—Rates, Charges and Regulations**

Sec. 8293. Charge of unreasonable rates—declared to be extortion—punishment.

Sec. 8294. Unjust discrimination prohibited—punishment—rebates.

Sec. 8295. Charges in proportion to distance—passengers—freights and cars—construction and application.

Sec. 8297. Charges for shorter hauls—construction.

Sec. 8298. Exceptions as to uniformity in freight charges.

Sec. 8299. Chapter applies to continuous or part continuous carriage.

Sec. 8300. Consignee entitled to itemized statement of charges—correction of errors.

Sec. 8301. Consignee may require settlement according to contract—penalty.

Sec. 8302. Provision to recover charges from common carriers in excess of legal rate.

Sec. 8303. Cotton—how classified by common carriers.

Sec. 8304. Commissioners to make freight and passenger tariffs—regulations.

Sec. 8305. Schedule of rates—evidence—schedules to be posted—penalty.

Sec. 8306. Commission to fix storage charges on freight.

Sec. 8307. Discrimination and excessive charges for storage prohibited.

Sec. 8308. Penalty for discrimination or excessive charges for storage.

Sec. 8309. Publish freight rates on melons, etc.

Sec. 8310. Public service commission empowered to fix contracts between common carriers, telephone companies, etc.

Sec. 8311. To make regulations.

Sec. 8312. Connecting railroads not to discriminate.

Sec. 8313. Not to discriminate as to other railroads by refusal to receive freight.

Sec. 8314. Not to discriminate in rates of freight as to other railroads.

Sec. 8315. "Railroad company" construed—what shall not operate as a bar to this chapter.

Sec. 8316. Railroads to receive cars from other roads on equal terms—rebates, fraud, etc.

Sec. 8317. Common carriers not to interfere with contracts of shipment.

Sec. 8318. Penalty for carriers interfering with contracts of shipment.

Sec. 8319. Consignees of coal, etc., may have same reweighed.

Sec. 8320. Penalty for failure to have coal reweighed.

Sec. 8321. No demurrage after demand that coal be reweighed.

Sec. 8322. Common carriers to maintain scales under certain conditions.

Sec. 8323. Public service commission to have jurisdiction over track and platform scales.

Sec. 8324. Railroads to receive cars from connecting lines.

Sec. 8325. When railroad must recognize through bills of lading.

See. 8326. Facilities for receiving and forwarding freight to be furnished.

Sec. 8327. Shipper to have the right to designate route.

Sec. 8328. Penalty for violation of certain provisions.

Sec. 8328-1. Violation of regulations as to through freight.

Sec. 8329. Railroads to interchange freights.

Sec. 8330. Facilities for interchange of traffic to be furnished.

Sec. 8331. When railroad companies connect tracks—penalties of avoidance—powers of commission.

Sec. 8332. Rights of way for connecting track.

Sec. 8333. Crossing one track by another—power of public service commissioners in relation thereto.

Sec. 8334. Cars to be transferred to connecting track—fees—penalty.

Sec. 8335. Authorized to join tracks—expenses.

**Sec. 8336.** Right to use franchise where connecting switches are refused.

**Sec. 8337.** Connecting roads to operate as one when operated by same company.

**Sec. 8338.** Violation of rules after notice—recompense—penalty—a action for recovery—how instituted.

**Sec. 8339.** Injuries to persons—recovery—damages—limitation of time.

**Sec. 8340.** Duplicate receipts—delivery of goods on presentation of receipt—penalty.

**Sec. 8341.** Mandamus to require compliance—punishment for disobedience—costs and counsel fees.

**Sec. 8342.** Deposit of list of names and residences of president and directors.

**Sec. 8343.** Trains prohibited from running on Sunday—exceptions.

**Sec. 8344.** What trains may run.

**Sec. 8345.** Penalty for violation.

**Sec. 8346.** Overloading cars with animals—period of confinement—care of animals, etc.

**Sec. 8347.** “Animals”, owner”, etc., construed.

**Sec. 8348.** Regulation of loading and unloading live stock by railroads.

**Sec. 8349.** Railroad companies required to furnish shippers of live stock certain information.

#### **Article 6—Safety Appliances and Liability for Injuries and Damages**

**Sec. 8350.** Brakes shall be attached—brakeman stationed.

**Sec. 8351.** Trains shall be equipped with tools.

**Sec. 8352.** Lighting cars with naptha and other substances easily ignited—fastening stoves—penalty.

**Sec. 8353.** Formation of trains.

**Sec. 8354.** Lines of two steam railroads crossing—when trains stop.

Sec. 8355. Signals to be given at crossings.  
Sec. 8356. Signs at crossings—inscription—exception.  
Sec. 8357. Railroads required to provide warning boards.  
Sec. 8358. To be provided within one year.  
Sec. 8359. Penalty for failure to comply.  
Sec. 8360. Leaving hand or lever cars near crossings—penalty—liability for damages for frightened horses.  
Sec. 8361. Trains to stop at stations.  
Sec. 8362. Responsible for damages by fire.  
Sec. 8363. New railroad—when and how opened.  
Sec. 8364. Railroad companies required to furnish shelter for certain employees.  
Sec. 8365. Penalty.  
Sec. 8366. Liability of railroads for injuries to employees.  
Sec. 8367. Contributory negligence.  
Sec. 8368. Assumption of risk.  
Sec. 8369. No exemption from liability.  
Sec. 8370. Time limit.  
Sec. 8371. Survival of right of action.  
Sec. 8372. "Common carrier" defined.  
Sec. 8373. Remedy herein not exclusive.  
Sec. 8374. Punitive damages.  
Sec. 8374-1. Injury by negligence or carelessness.  
Sec. 8374-2. Penalty for gross carelessness or negligence.  
Sec. 8375. Accidents—notice to be given—penalty.  
Sec. 8376. Lien of judgments for personal injury or injury to property, streets or highways—priorities.  
Sec. 8377. Injuries at crossings—penalty and damages.  
Sec. 8378. County supervisors to examine crossings.  
Sec. 8379. Powers and duties of supervisors as to unsafe crossings.  
Sec. 8380. Flagmen to be stationed at crossings.  
Sec. 8381. Appeal from public service commissioners—appointment of civil engineer.  
Sec. 8382. Compliance by railroad with orders of commissioners as to crossings or flagmen.

Sec. 8383. County supervisors to report examinations—compensation.

Sec. 8384. Supervisors to keep record of duties performed.

Sec. 8385. Sign boards—duty of county commissioners.

Sec. 8386. Penalty for neglect of duty by supervisors.

Sec. 8387. Railroads to maintain bridges, etc.

Sec. 8388. Transportation of explosive compounds—public service commissioners to fix maximum.

Sec. 8389. Explosives to be packed, marked, etc.

Sec. 8390. Punishment for violations of provisions as to explosives.

Sec. 8391. Magistrates may issue search warrants for explosives.

Sec. 8392. Explosives forfeited when seized.

Sec. 8393. Damages for injury by explosives.

Sec. 8394. "Explosive compound" defined.

#### Article 7—Carriage of Passengers and Goods

Sec. 8395. Accommodation for passengers—penalty.

Sec. 8396. Separate coaches for white and colored—toilet compartments.

Sec. 8397. Penalty for officer or employee violating provision as to white and colored.

Sec. 8398. White and colored allowed in same coach when unavoidable.

Sec. 8399. Exceptions to sections 8396 to 8398.

Sec. 8400. Penalty for violation of provisions as to separate accommodations.

Sec. 8400-1. Penalty for officer or employee violating the law as to separate cars for each race.

Sec. 8400-2. Penalty for passenger refusing to obey law as to separate cars.

Sec. 8401. Trains to stop at county seats.

Sec. 8402. All steam railroads to equip coaches with cinder deflectors.

Sec. 8403. Meals to be furnished white and colored passengers apart.

Sec. 8404. Spittoons in passenger cars.

Sec. 8405. Public service commissioners to regulate schedule of passenger trains—hearing and appeal.

Sec. 8406. Forfeiture for failure to obey orders.

Sec. 8407. Passenger rates on railroads.

Sec. 8408. Mileage tickets shall be good for members of purchaser's families.

Sec. 8409. Coupons from mileage books receivable for fare—baggage checked.

Sec. 8410. To check baggage—penalty for refusal.

Sec. 8411. Railroads to transport certain baggage free.

Sec. 8411-1. Penalty for refusal to transport certain baggage free.

Sec. 8412. Bicycles and baby carriages deemed baggage.

Sec. 8413. To keep rooms for passengers.

Sec. 8413-1. Penalty for loitering in station houses, etc.

Sec. 8414. Railroads to build two separate closets when ordered by public service commission—penalty for failure.

Sec. 8415. Public service commissioners may require railroads to erect depots.

Sec. 8416. Railroads to keep grade at stations level with track—penalty.

Sec. 8417. Proceedings as to late trains.

See. 8418. Change of time table to be published.

Sec. 8419. Badges to be worn by employees.

Sec. 8420. Police powers of conductors and station agents.

Sec. 8421. Conductor may eject disorderly passenger—assistance of other passengers—force employed.

Sec. 8422. Company must give receipts for freight upon request of shipper—penalty.

Sec. 8423. Liability for loss or damage, as between connecting roads—how discharged, etc.

Sec. 8424. Common carriers denying liability to return claims and accompanying papers—carrier may retain copies—notice of demand for return.

Sec. 8425. Penalty for violation.

Sec. 8426. Not to affect any other right of claimant.

Sec. 8427. Merchandise must be promptly forwarded according to directions, etc.

Sec. 8428. Attachment of cars and engines precluded under certain conditions.

### **Article 8—Crossings and Cattle Guards**

Sec. 8429. Public service commissioners' regulations as to crossings.

Sec. 8430. Not to obstruct highways at crossings.

Sec. 8431. Railroad companies may raise or lower highways.

Sec. 8432. May alter course of highway—when and how.

Sec. 8433. Crossing on level to be protected—how.

Sec. 8434. Highway or town way across railroad—how may be laid out.

Sec. 8435. Stock guards to be constructed.

Sec. 8436. Penalty for violation.

### **Article 9—Rights of Way**

Sec. 8437. Written notice to landowner—time—service—presumption of consent.

Sec. 8438. Mode of acquiring right of way—assessment of damages—duty of clerk.

Sec. 8439. Procedure where clerk is interested—substitution of probate judge.

Sec. 8440. Jury to inspect premises, fix compensation, etc.

Sec. 8441. Right of appeal to circuit court—amount of verdict to be deposited.

Sec. 8442. Lands for depots, etc.

Sec. 8443. Notice to trustees in certain cases—published notice sufficient for nonresidents.

Sec. 8444. Right of way—vesting of title—fee to remain in owner.

Sec. 8445. Liability to condemnation.

Sec. 8446. Right of entry for survey.

Sec. 8447. Proceedings relating to condemnation to be filed with clerk of court.

Sec. 8448. Clerk's, sheriff's and juror's fees—by whom paid.

Sec. 8449. Penalty for failure of jurors to attend.  
Sec. 8450. All railroads, whether steam or electric, entitled to condemn land.

#### **Article 10—Penalties and Forfeitures**

Sec. 8451. Penalty for injuring railroad, etc.  
Sec. 8452. Penalty for obstructing engine, etc.  
Sec. 8453. Damages and penalty for prohibited acts—limit of recovery.  
Sec. 8454. Action regarded as subject of equity jurisdiction—affirmative relief—injunction, etc.  
Sec. 8455. Officers, employees, etc., compellable to testify—production of books, papers, etc.  
Sec. 8456. Limitation of action — judgments — against whom to be rendered.  
Sec. 8457. Penalty for violation.  
Sec. 8458. Fines and forfeitures—how collected.  
Sec. 8460. Proceedings in case of repeated violations.  
Sec. 8461. Penalty for a railroad company operating competing lines.

#### **CHAPTER 160-A**

##### **Grade Crossings and Grade Separation Structures Across Railroad Tracks**

Sec. 8462. Uniform basis for elimination of grade crossings.  
Sec. 8463. Notice to railway company—procedure upon failure to agree.  
Sec. 8464. Railroad company may select materials.  
Sec. 8465. Division of costs—maintenance—specifications for structures and approaches—rights of way.  
Sec. 8466. Continuance of crossings as private crossings.  
Sec. 8467. Special agreements.  
Sec. 8468. Right to have work done upon failure of railroad to comply with order—repayment of expenses—interest.

Sec. 8469. Appeals to public service commission—hearings—appeals to courts.

Sec. 8470. Appeals.

Sec. 8471. Construction pending appeal.

Sec. 8472. "Grade crossing", "department", and "railroad" defined.

Sec. 8473. Operators of railroads to construct proper grade crossings—specifications—penalty.

Sec. 8474. Cooperation of highway department and railroad companies in relation to separation structures.

Sec. 8475. Necessity of work determined by department—notice to companies.

Sec. 8476. Apportionment of costs.

Sec. 8477. To what separation structures sections apply.

Sec. 8478. Appeal by railroad company.  
*1942 Code of Laws of South Carolina, Vol. 4, Pp. 749-867.*

## SOUTH CAROLINA CODE OF CIVIL PROCEDURE

Sec. 434. Summons—Service.

*1942 Code of Laws of South Carolina, Vol. 4, Page 287.*

Sec. 527. Property of foreign corporations, and of non-resident, absconding or concealed defendants; may be attached.

*1942 Code of Laws of South Carolina, Vol. 4, Page 380.*

## STATE CONSTITUTION OF 1895

### Article IX—Corporations

Sec. 1. Corporation defined.

Sec. 2. Charter of incorporation.

Sec. 3. Transporting and transmitting corporations taxed as such—common law liability.

Sec. 4. Agent of corporation—office.

Sec. 5. Discrimination in charges.

Sec. 6. Transportation company may connect or cross lines of another.

Sec. 7. Consolidation of stock with competing line—jury may decide whether lines are parallel or competing.

Sec. 8. No foreign corporation can build or operate a railroad in this State—no general or special law for foreign corporation, except on conditions.

Sec. 9. Banks.

Sec. 10. Stock issued for money or labor.

Sec. 11. Election of officers of corporations.

Sec. 12. Business of corporations.

Sec. 13. Trusts, combinations, etc.

Sec. 14. The public service commission.

Sec. 15. Rights and remedies of employees.

Sec. 16. Existing charters.

Sec. 17. Laws for benefit of corporation passed only on conditions.

Sec. 18. Liability of stockholders.

Sec. 19. Corporations cannot do act prohibited through controlling interest in other corporations.

Sec. 20. Right of way.

Sec. 21. Provisions not self-executing.

# SUPREME COURT OF THE UNITED STATES

No. 390.—OCTOBER TERM, 1947.

Seaboard Air Line Railroad Company,  
Appellant,

v.

John M. Daniel, as Attorney General  
of the State of South Carolina, and  
W. P. Blackwell, as Secretary of the  
State of South Carolina, Appellees.

Appeal from the  
Supreme Court  
of the State of  
South Carolina.

[February 16, 1948.]

MR. JUSTICE BLACK delivered the opinion of the Court.

The constitution and statutes of South Carolina provide that railroad lines within that State can be owned and operated only by state created corporations; a railroad corporation chartered only under the laws of another state is forbidden under heavy penalties to exercise such powers within South Carolina.<sup>1</sup> There is a way, however, in which a foreign railroad corporation may, under South Carolina statutes, indirectly exercise some powers over its South Carolina operations. It may organize a South Carolina subsidiary. In addition, it may, under South Carolina law, consolidate that corporation with itself. In that event, so far as South Carolina statutes can govern, the consolidated result would be a corporation both of South Carolina and of another state.<sup>2</sup>

In 1946 the appellant, Seaboard Air Line Railroad Company, with the approval of the Interstate Commerce Commission, succeeded to the ownership and operation of a

<sup>1</sup> S. C. Const. Art. 9, § 8; S. C. Code Ann. § 7784 (1942). Violations are punishable by fines of \$500 for each county in which the railroad operates. Apparently each day's operation of the railroad constitutes a separate offense. The appellant in this suit operates in 30 South Carolina counties.

<sup>2</sup> S. C. Const. Art. 9, § 8; S. C. Code Ann. §§ 7777, 7778, 7779, 7785, 7789 (1942). See *Geraty v. Atlantic Coast Line R. Co.*, 80 S. C. 355, 361, 60 S. E. 936, 937.

## 2 SEABOARD-AIR LINE R. CO. v. DANIEL.

unitary railroad system with 4,200 railway miles in six southern states. Seven hundred and thirty-six miles of its lines traverse South Carolina connecting with its lines in adjoining states. Appellant is a Virginia created corporation, has no South Carolina subsidiary, and has effected no consolidation with a South Carolina created corporation. It is therefore subject to the penalties provided by South Carolina law if that law can validly be applied to it.

This action was brought by appellant in the South Carolina Supreme Court to enjoin the state attorney general from attempting to collect the statutory penalties from appellant or to enforce the statutory provisions against it.<sup>3</sup> The complaint alleged the following facts, about which there is no substantial dispute. Appellant applied to the Interstate Commerce Commission for approval of its purchase of the railway system pursuant to § 5 of the Interstate Commerce Act, as amended, 49 U. S. C. § 5. After notice to the Governor of South Carolina and others, the Commission conducted hearings and made a report in which it found that compliance by appellant with the South Carolina railroad corporation laws would result in "substantial delay and needless expense." It further found the compliance "would not be consistent with the public interest"—the criterion which § 5 required the Commission to use in passing upon a change in ownership or control of a railroad. The Commission then entered an order which authorized appellant, as a Virginia corporation, to own and operate the entire system including the South Carolina mileage. The complaint also asserted that the order, by explicit reference to

<sup>3</sup> The appellant also prayed for a mandamus to compel the Secretary of State to accept and file papers and documents tendered by appellant seeking authority to do business in the state as a foreign corporation under other South Carolina statutes. That phase of the case is not pressed here.

the Commission finding in its report, affirmatively authorized appellant to own and operate the entire railway system without complying with the South Carolina railroad corporation laws.\*

The answer to the complaint did not challenge the constitutional power of Congress to relieve appellant of compliance with South Carolina's requirements of state incorporation. It took the position that insofar as the Commission order could be interpreted as an attempt to override state laws in this respect it was void because outside the scope of the Commission's statutory authority. The appellant then filed a demurrer on the ground that the answer as a matter of law constituted neither a defense nor a counterclaim since it admitted all allegations of fact in the complaint, and advanced nothing more than erroneous legal conclusions as asserted reasons why appellant should not be granted the relief for which it prayed.

No evidence was taken and the State Supreme Court decided the case on the pleadings. That court construed the Commission's order as relieving appellant from compliance with the statutory and constitutional provisions in issue, but it agreed with the respondents that the Commission lacked power under §5 to enter such an order. Accordingly the State Supreme Court revoked the temporary restraining order it had previously issued, denied the requested injunction, and dismissed the complaint.

— S. C. —, 43 S. E. 2d 839. The case is properly here on appeal under § 237(a) of the Judicial Code, as amended, 28 U.S.C. § 344(a).

*First.* The complaint largely relied on an order of the Interstate Commerce Commission as a basis for the relief

\* The complaint also alleged, and it is argued here, that the state constitutional and statutory provisions imposed burdens on this interstate railroad in violation of the Commerce Clause of the Constitution of the United States. The view we take makes it unnecessary for us to pass on this contention.

#### 4. SEABOARD AIR LINE R. CO. v. DANIEL.

sought. The answer questioned the validity and scope of that order but did not seek a decree to set it aside or suspend it. Federal district courts have exclusive jurisdiction of suits to enjoin, set aside, annul or suspend an order of the Commission. In such suits the United States is an indispensable party. 28 U. S. C. § 46. Although the jurisdiction of the South Carolina Supreme Court was there conceded, and is not here challenged, we think it appropriate to pass upon it.

So far as the appellant's complaint is concerned, this is not the kind of action to "set aside" a Commission order of which the federal district courts have exclusive jurisdiction. While the action does involve the scope and validity of a Commission order, the relief requested in the complaint was the removal of an obstruction to the railroad's obedience to the order, not its suspension or annulment. Nor did the answer seek to have the enforcement of the order enjoined, although it did question its validity as a basis for the relief sought in the complaint.

The appellant was in this dilemma. Federal law required it to obey the order so long as it remained in effect; for a failure to abide by its terms serious federal penalties could be imposed on it. 49 U. S. C. §§ 10 (1), 16 (7), (8), (9), (10). On the other hand, South Carolina statutes provided penalties for obedience to the order, which South Carolina officials asserted were enforceable against appellant despite the Commission's order. There was thus a bona fide controversy between appellant and the state officials over the validity of the order. Appellant wanted to obey the order; the state officials insisted appellant must obey their statutes instead. Federal district courts have not been granted special jurisdiction to review and confirm orders of the Commission at the suit of railroads wishing to obey such orders.

Under the foregoing circumstances appellant was not compelled to wait until someone who had standing to attack the Commission's order might decide to seek its annulment in a federal district court. It properly sought relief from a court which could obtain jurisdiction of the parties whose refusal to recognize the order gave rise to its predicament. And the state court then had power, because of the issues raised by the complaint and because of the relief requested, to determine whether the order, properly interpreted, did exempt appellant from compliance with the state railroad corporation laws and, if so, whether the Commission had transcended its statutory authority in making the order. *Illinois Cent. R. Cg. v. Public Utilities Comm'n*, 245 U. S. 493, 502-505. See *Lambert Run Coal Co. v. Baltimore & O. R. Co.*, 258 U. S. 377, 381-382; *Central New England R. Co. v. Boston & A. R. Co.*, 279 U. S. 415, 420-421.

Second. It is here contended that the Commission's order did not manifest a clear purpose to authorize the exemption of appellant from obedience to the state's domestic corporation policy. We have no doubt that the Commission intended its order to have this effect. Its final order expressly stated that, subject to a condition not here relevant, it approved and authorized "the purchase . . . and the operation" by the appellant of the South Carolina and other railroad properties. Furthermore, the Commission discussed the South Carolina requirements in its report and therein made findings that compliance by appellant with them "would not be consistent with the public interest." These references were made to the South Carolina provisions, according to the Commission's report, in response to the appellant's suggestion that it would "avoid complications" if the Commission's report showed "on its face that our order is intended to override them."

*Third.* Respondents contend that the Commission lacked statutory authority to enter an order which would permit a Virginia corporation to operate these railroad lines in and through South Carolina contrary to that state's constitutional and legislative policy. They point to the broad powers states have always exercised in excluding foreign corporations and in admitting them within their borders upon conditions. They also emphasize the importance of this regulatory power to the states, and urge that, in the absence of express language requiring it, § 5 should be construed neither to restrict that state power nor to authorize the Commission to override state enactments. Recognizing the force of these arguments in general, we note the following circumstances which render them inapplicable in this case.

Congress has long made the maintenance and development of an economical and efficient railroad system a matter of primary national concern. Its legislation must be read with this purpose in mind. In keeping with this purpose Congress has often recognized that the nation's railroads should have sound corporate and financial structures and has taken appropriate steps to this end. The purchase of this very railroad by appellant resulted from extensive reorganization proceedings conducted by the Interstate Commerce Commission and federal district courts in accordance with congressional enactments applicable to railroads. In furtherance of this congressional policy these agencies approved reorganization plans which called for the purchase and operation of these properties, including the portion in South Carolina, by appellant, as a Virginia corporation.

This Court has previously approved a Commission order entered in a § 5 consolidation proceeding which granted a railroad relief from state laws analogous to the state requirements here. *Texas v. United States*, 292 U. S. 522 (1934). Most of the reasons which justified

the Commission's order in that case are equally applicable here. Furthermore, since that case was decided Congress has given additional proof of its purpose to grant adequate power to the Commission to override state laws which may interfere with efficient and economical railroad operation. By § 7 (11) of the Interstate Commerce Act of 1940, 54 Stat. 908, 49 U. S. C. § 5 (11), Congress granted the Commission "exclusive and plenary" authority in refusing or approving railroad consolidations, mergers, acquisitions, etc. The breadth of this grant of power can be understood only by reference to § 5 (2) (b) which authorizes the Commission to condition its approval "upon such terms and conditions and such modifications as it shall find to be just and reasonable." All of this power can be exercised in accordance with what the Commission may find to be "consistent with the public interest." The purchaser of railroad property with Commission approval is authorized by § 5 (11) "to own and operate any properties . . . acquired through said transaction without invoking any approval under State authority," and such an approved owner, according to that paragraph, is "relieved from the operation of the antitrust laws and of all other restraints, limitations, and prohibitions of law, Federal, State, or municipal, insofar as may be necessary to enable them to carry into effect the transaction so approved . . . and to hold, maintain and operate any properties . . . acquired through such transaction."

This language very clearly reposes power in the Commission to exempt railroads under a § 5 proceeding from state laws which bar them from operating in the state or impose conditions upon such operation. The state court nevertheless thought that the last sentence of § 5 (11) negatived a congressional purpose to empower the Commission to relieve railroads from state laws such as South Carolina's. That sentence reads: "Nothing in this section shall be construed to create or provide for the

8 SEABOARD AIR LINE R. CO. v. DANIEL.

creation, directly or indirectly, of a Federal corporation, but any power granted by this section to any carrier or other corporation shall be deemed to be in addition to and in modification of its powers under its corporate charter or under the laws of any State." We see nothing in this sentence that detracts from the broad powers granted the Commission by § 5. In fact, the language of the sentence appears to support the Commission's power here exercised. Although the sentence bars creation of a federal corporation, it clearly authorizes a railroad corporation to exercise the powers therein granted over and above those bestowed upon it by the state of its creation. These federally conferred powers can be exercised in the same manner as though they had been granted to a federally created corporation. See *California v. Central Pacific R. Co.*, 127 U. S. 1, 38, 40-45. Here, just as a federally created railroad corporation could for federal purposes operate in South Carolina, so can this Virginia corporation exercise its federally granted power to operate in that State.

Other arguments of respondent have been considered and found to be without merit. Appellant is entitled to the injunction it sought.

The judgment of the South Carolina Supreme Court denying the injunction and dismissing the complaint is reversed, and the cause is remanded to that court for proceedings not inconsistent with this opinion.

*Reversed and remanded.*